

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JASON BLANKENSHIP,	§	
Plaintiff,	§	
v.	§	Civil Action No. 6:21-cv-00203
INSITUFORM TECHNOLOGIES, LLC,	§	
Defendant.	§	

INDEX OF PLEADINGS FILED IN STATE COURT

<u>DOCUMENT</u>	<u>DATE FILED</u>
1. Docket Sheet	01/21/2021
2. Plaintiff's Original Petition	01/21/2021
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5. E-File Information Sheet	01/22/2021
6. Citation Issues to Insituform Technologies LLC	01/22/2021
7. Returned Citation (Insituform)	02/19/2021
8. E-File Information Sheet	02/22/2021
9. Defendant's Original Answer	02/23/2021

46008424.1

ADALYN DODD DISTRICT CLERK
 501 Washington Avenue , Suite 300 Annex
 Waco , TX , 76701
 PHONE # : (254) 757-5057
 FAX : N/A

DOCKET SHEET - CIVIL CASE

DOCKET NO. : 2021-151-4 **CASE STATUS :** PENDING **FILED DATE :** 01/21/2021 **TJC CODE :** OTHER CONT

STYLE : JASON BLANKENSHIP Vs. INSITUFORM TECHNOLOGIES LLC

DISPOSITION : **DISPOSED :** N/A **TJC CODE :**

TYPE	PARTY	ATTORNEY
PLAINTIFF	JASON BLANKENSHIP	JOEL SHIELDS
	0	P O BOX 20965 WACO TX 76702
DEFENDAN	INSITUFORM TECHNOLOGIES LLC	
	C/O CORP SERVICE CO. DBA CSC LAWYERS INC SERVICE	0

HEARING NOTES : 2021-151-4

DATE	TEXT
01/21/2021	PLAINTIFF'S ORIGINAL PETITION
01/21/2021	REQUEST FOR ISSUANCE
01/21/2021	CIVIL CASE INFORMATION SHEET
01/22/2021	E-FILE INFORMATION SHEET //PE (PETITION/INFO SHEET/REQUEST)
01/22/2021	CITATION ISSUED TO INSITUFORM TECHNOLOGIES LLC
02/19/2021	RETURNED CITATION (INSITUFORM)
02/22/2021	E-FILE INFORMATION SHEET //PE (RTN CIT)
02/23/2021	Defendant's Original Answer

ADALYN DODD DISTRICT CLERK

501 Washington Avenue , Suite 300 Annex
Waco , TX , 76701
PHONE # : (254) 757-5057
FAX : N/A

DOCKET SHEET - CIVIL CASE

CASE NO. : 2021-151-4

STYLE : JASON BLANKENSHIP Vs. INSITUFORM TEC

DOCKET ENTRY

NO. 2021-151-4

JASON BLANKENSHIP

 \mathbb{I}

IN THE DISTRICT COURT OF

V.

 \mathbb{I}

McLENNAN COUNTY, TEXAS

INSITUFORM TECHNOLOGIES, LLC

 \mathbb{I}

170TH JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE COURT:

NOW COMES Plaintiff, Jason Blankenship, complaining of Defendant, Insituform Technologies, LLC, and files this Plaintiff's Original Petition alleging the following:

I. Nature of the Case

1. Plaintiff, Jason Blankenship, brings this action under the Family & Medical Leave Act (FMLA), 29 U.S.C. 2601, *et. seq.*, for the unlawful employment practices committed by Defendant, Insituform Technologies, LLC, against Plaintiff by interfering with Plaintiff's leave, job restoration rights following leave, and by terminating Plaintiff's employment.

II. Discovery Plan

2. Plaintiff intends for this suit to be governed by a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

III. Parties and Service of Process

3. Plaintiff is an individual who resides in McLennan County, Texas.

4. Defendant, Insituform Technologies, LLC, does business in McLennan County, Texas, and may be served with process by serving its registered agent, Corporation Service Company dba CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

IV. Venue

5. Venue is proper in McLennan County, Texas, because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in McLennan County, Texas.

V. Factual Background

6. Jason Blankenship worked at Defendant's McGregor plant.

7. Blankenship sustained a knee injury and subsequently sought medical leave under the FMLA, which Defendant approved from June 23, 2020, through July 20, 2020.

8. Blankenship returned to work on July 21, 2020.

9. Blankenship sought FMLA leave to bond with his newborn daughter from September 22, 2020, through October 25, 2020. Defendant communicated with Blankenship verbally and in writing that he was eligible for leave and that his leave was approved. Blankenship relied on such representations in taking FMLA leave.

10. During his leave, Blankenship was informed that the Plant Manager classified Blankenship as a "no-call/no-show" notwithstanding his approved leave under the FMLA. The Plant Manager had also expressed frustration at Blankenship's absences from work due to FMLA. Blankenship immediately texted both his Supervisor and the Plant Manager to again communicate that he was out on FMLA-

approved leave. Blankenship then filed a complaint with HR concerning the actions taken against him by the Plant Manager. Blankenship called and spoke with HR concerning the Plant Manager's attempts to try and get rid of him because of his use of family leave. While the HR representative said she would handle what she could on her end, she simply told Blankenship to return to work following his family leave and "see what happens."

11. Prior to his return to work, the Plant Manager contacted Blankenship and told him that there had been "changes" at work while he was on leave. The Plant Manager informed Blankenship that he would receive Line Lead training upon his return. But this training never occurred. To the contrary, when Blankenship returned to work, he learned another employee had been placed in his position, and Blankenship had been relegated to a lesser role doing menial tasks. For example, Blankenship was instructed to literally sit on a 55-gallon drum for 3 straight days with no training. In fact, in all his time at Defendant's plant, Blankenship had never seen anyone ride a drum for the lining process. Blankenship complained about this to his Supervisor and was informed that the Plant Manager would not listen to him.

12. Despite Blankenship's protests, menial tasks continued to be assigned to him in his new lesser role. Blankenship was assigned general labor duties and provided no training. For example, he was assigned to load liners, which is a task assigned to new hires and temporary employees. Blankenship also learned that the Plant Manager had instructed HR to investigate his filing for unemployment benefits due to reduced hours during the COVID-19 pandemic. It became clear that the Plant Manager was trying to end Blankenship's employment. Blankenship even discovered

the words “F*ck Jaycee” written on some equipment. “Jaycee” is what one of the employees called Blankenship because the employee could not properly say Jason.

13. On Friday, November 6, no production took place. On these days, Line Leads spend the shift upgrading, repairing, and maintaining the line and equipment. Blankenship was not allowed to do this. Those duties were assigned to the employee who had been placed in his position while on FMLA leave. Instead, Blankenship was relegated to janitor-like tasks, involving general housekeeping, sweeping, cleaning, and miscellaneous chores.

14. On Monday, November 9, it was more of the same menial tasks. On this day, the Plant Manager instructed Blankenship to go outside and clean a truck with a temporary employee. The Plant Manager also instructed Blankenship to clean out and throw away 3 liners from cold storage on very heavy 15-inch lines. Again, these were the most basic manual labor tasks that had not previously been part of his job prior to his family leave under the FMLA. While Blankenship was completing these tasks, the employee who replaced Blankenship was inside being trained on the Line Lead position.

15. Because of the reassignment to menial and degrading work, the reduction in job responsibilities, the demotion, and the badgering, harassment, and humiliation by Defendant, the working conditions became so intolerable that Blankenship was compelled to resign, which constitutes a constructive discharge/adverse employment action.

VI. Causes of Action

Violations of the Family & Medical Leave Act (Interference & Retaliation)

16. The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right under the FMLA, or discharge or otherwise discriminate against an individual for opposing any practice made unlawful by the FMLA.

17. Defendant is an “employer” as that term is defined under the FMLA.

18. Blankenship is an “eligible employee” within the meaning of the FMLA in that he was employed by Defendant for at least 12 months and for at least 1,250 hours of service during the previous 12-month period. Blankenship was entitled to 12 work weeks of leave to bond with his newborn daughter and/or for his own serious medical condition. Blankenship was also entitled to be reinstated to his same or equivalent position following his leave.

19. In the alternative, Defendant is equitably estopped from arguing the FMLA does not apply because Defendant affirmatively represented verbally and in writing that Plaintiff was eligible for FMLA leave and that Defendant had approved such leave. Plaintiff relied on these representations in taking leave under the FMLA to his detriment.

20. Defendant intentionally interfered with and/or denied the exercise of rights provided under the FMLA by failing to reinstate Plaintiff to the same position he held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment; and by discharging Plaintiff's employment following his FMLA leave.

21. Defendant violated both Blankenship's prescriptive and proscriptive rights under the FMLA by the actions described above and by retaliating against him for exercising his rights under the FMLA and/or complaining about mistreatment because of his FMLA.

22. Defendant acted willfully in violating Plaintiff's rights under the FMLA.

VII. Damages

23. As a result of the above, Plaintiff has lost past and future wages and benefits of employment. Plaintiff has also suffered compensatory damages in the past and will likely suffer compensatory damages in the future because of Defendant's conduct.

24. Plaintiff seeks the recovery of liquidated damages under the FMLA.

25. Pursuant to Rule 47, TEX. R. CIV. P., Plaintiff seeks monetary relief over \$250,000 but not more than \$1,000,000.

VIII. Attorneys' Fees

26. Blankenship has also had to employ attorneys to vindicate his rights under the law, and therefore, he seeks reasonable and necessary attorneys' fees and costs under the FMLA.

IX. Demand for Jury Trial

27. Plaintiff hereby respectfully demands a trial by jury of all claims and issues in this cause.

WHEREFORE, Plaintiff, Jason Blankenship, respectfully requests that the Court issue citation for Defendant, Insituform Technologies, LLC, to appear and answer, and that upon final trial, Plaintiff have and recover a judgment against

Defendant for all actual damages suffered and/or incurred by Plaintiff, for pre-judgment and post-judgment interest at the highest rates allowed by law, for court costs, attorneys' fees, liquidated damages, and for all other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

SCANES & ROUTH, LLP
7901 Fish Pond Road, Suite 200
P. O. Box 20965
Waco, Texas 76702-0965
(254) 399-8788
(254) 399-8780 (FAX)

BY: /s/ Joel S. Shields
Benjamin C. Yelverton
State Bar No. 24084132
Email: yelverton@scanesrouth.com
Joel S. Shields
State Bar No. 24041907
E-mail: shields@scanesrouth.com

ATTORNEYS FOR PLAINTIFF



FILED
MCLENNAN COUNTY
1/21/2021 3:27 PM
JON R. GIMBLE
DISTRICT CLERK
 Tiffany Madkins

JON R. GIMBLE
DISTRICT CLERK
 McLENNAN COUNTY COURTHOUSE
 501 Washington Ave., Suite 300 Annex
 WACO, TEXAS 76701
 254-757-5057 OR 757-5054

REQUEST FOR ISSUANCE

CAUSE NUMBER: 2021-151-4 DATE: 1/21/21

PERSON TO BE SERVED: Insituform Technologies, LLC by serving its registered agent, Corporation Service Company dba

ADDRESS TO SERVE: CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218

FEE PAID BY: CHECK ☐ CASH ☐ DEBIT ☐ OATH ☒ CREDIT CARD (INCLUDES PROCESSING FEE) ☐

ISSUANCE:

CITATION ☒ NOTICE OF HEARING/CONTEMPT _____

TRO ☐ PROTECTIVE ORDER ☐

WRIT OF (SPECIFY) ☐ OTHER (SPECIFY) _____

SERVICE:

DELIVER TO ATTORNEY _____

DELIVER TO CONSTABLE _____

DELIVER TO PRIVATE PROCESS SERVER (SPECIFY) Central Texas Litigation (Box)

DELIVER TO SHERIFF _____

REQUESTED BY:
 (PLEASE PRINT)

BY Joel Shields

FIRM Scanes & Routh, LLP

CONTACT NO. 254-399-8788

CIVIL CASE INFORMATION SHEET

FILED
MCLENNAN COUNTY
1/21/2021 3:27 PM
JON R. GIMBLE
DISTRICT CLERK

CAUSE NUMBER (FOR CLERK USE ONLY): 2021-151-4 COURT (FOR CLERK USE ONLY): JON R. GIMBLE

STYLED Jason Blankenship vs. Insituform Technologies, LLC

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

Tiffany Madkins

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:			Names of parties in case:		Person or entity completing sheet is:	
Name:		Email:	Plaintiff(s)/Petitioner(s):		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____	
<u>Joel Shields</u>		<u>shields@scanesrouth.com</u>	<u>Jason Blankenship</u>			
Address:		Telephone:	Defendant(s)/Respondent(s):		Additional Parties in Child Support Case:	
<u>P. O. Box 20965</u>		<u>254-399-8788</u>	<u>Insituform Technologies, LLC</u>		Custodial Parent:	
City/State/Zip:		Fax:			Non-Custodial Parent:	
<u>Waco, Texas 76702-0965</u>		<u>254-399-8780</u>			Presumed Father:	
Signature:		State Bar No:				
<u>/s/ Joel Shields</u>		<u>24041907</u>				
[Attach additional page as necessary to list all parties]						
2. Indicate case type, or identify the most important issue in the case (select only 1):						
Civil			Family Law			
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)		
<i>Debt/Contract</i> DEBT <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> OCON <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery DAM <input type="checkbox"/> Construction DAM <input type="checkbox"/> Defamation DAM <i>Malpractice</i> <input type="checkbox"/> Accounting OMAL <input type="checkbox"/> Legal OMAL <input type="checkbox"/> Medical MEDM <input type="checkbox"/> Other Professional Liability: OMAL _____ <input type="checkbox"/> Motor Vehicle Accident DAPI <input type="checkbox"/> Premises DAPI <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica PLA <input type="checkbox"/> Other Product Liability List Product: OPL _____ <input type="checkbox"/> Other Injury or Damage: DAM _____	<input type="checkbox"/> Eminent Domain/Condemnation EMD <input type="checkbox"/> Partition ORP <input type="checkbox"/> Quiet Title ORP <input type="checkbox"/> Trespass to Try Title ORP <input type="checkbox"/> Other Property: ORP _____ Related to Criminal Matters <input type="checkbox"/> Expunction EXPN <input type="checkbox"/> Extradition BRDC <input type="checkbox"/> Judgment Nisi CFOR <input type="checkbox"/> Occupational Lic CVCM <input type="checkbox"/> Non-Disclosure NDF <input type="checkbox"/> Seizure/Forfeiture FORF <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment W RTP <input type="checkbox"/> Other: _____ CVCM	<input type="checkbox"/> Annulment DVRC <input type="checkbox"/> Declare Marriage Void DVRC <i>Divorce</i> <input type="checkbox"/> With Children DVWC <input type="checkbox"/> No Children DVRC	<input type="checkbox"/> Enforcement ME <input type="checkbox"/> Modification—Custody MC <input type="checkbox"/> Modification—Othr MODO Title IV-D <input type="checkbox"/> Enfrcemnt/Modificatn MAG <input type="checkbox"/> Paternity AGPA <input type="checkbox"/> Reciprocal (UIFSA) AGUI <input type="checkbox"/> Support Order AGSO		
Employment	Other Civil = OCIV		Other Family Law	Parent-Child Relationship		
<input type="checkbox"/> Discrimination OCON <input checked="" type="checkbox"/> Retaliation OCON <input type="checkbox"/> Termination OCON <input type="checkbox"/> Workers' Compensation WORK <input type="checkbox"/> Other Employment: OCON _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Business Dissolution <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Occptnl Lic – civil/family <input type="checkbox"/> Protective Ord – NonFam <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____	<input type="checkbox"/> Adult Adoption OFAM <input type="checkbox"/> Enforce Foreign Judgment OFAM <input type="checkbox"/> Habeas Corpus OFAM <input type="checkbox"/> Judicial ByPass OFAM <input type="checkbox"/> Name Change OFAM <input type="checkbox"/> Protective Order POF <input type="checkbox"/> Removal of Disabilities of Minority OFAM <input type="checkbox"/> Other: OFAM _____	<input type="checkbox"/> Adoption/Adoption with Termination SEAL <input type="checkbox"/> Child Protection CPS <input type="checkbox"/> Child Support PCR <input type="checkbox"/> Custody or Visitation PCR <input type="checkbox"/> Gestational Parenting PCR <input type="checkbox"/> Grandparent Access PCR <input type="checkbox"/> Parentage/Paternity PCR <input type="checkbox"/> Termination of Parental Rights TPR <input type="checkbox"/> Other Parent-Child: PCR _____		
Tax = All TAX	Probate & Mental Health					
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____			
3. Indicate procedure or remedy, if applicable (may select more than 1):						
<input type="checkbox"/> Appeal from Municipal or Justice Court CA <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review BR <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment DJ <input type="checkbox"/> Garnishment WG <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration SQ <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover TO		
4. Indicate damages sought (do not select if it is a family law case):						
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000						

[Print this page](#)

Case # 2021-151-4 - JASON BLANKENSHIP VS INSITUFORM TECHNOLOGIES LLC (170TH)

Case Information

Location	McLennan County - District Clerk
Date Filed	1/21/2021 3:27 PM
Case Number	2021-151-4
Case Description	JASON BLANKENSHIP VS INSITUFORM TECHNOLOGIES LLC
Assigned to Judge	170TH
Attorney	Joel Shields
Firm Name	Scanes & Routh, LLP
Filed By	Susan Eskew
Filer Type	Not Applicable

Fees

Convenience Fee	\$10.20
Total Court Case Fees	\$298.00
Total Court Party Fees	\$0.00
Total Court Filing Fees	\$55.00
Total Court Service Fees	\$0.00
Total Filing & Service Fees	\$0.00
Total Provider Service Fees	\$0.00
Total Provider Tax Fees	\$0.00
Total Taxes (for non-court fees)	\$0.00
Grand Total	\$363.20

Payment

Account Name	Susan Firm Card
Transaction Amount	\$363.20
Transaction Response	Approved
Transaction ID	73629684
Order #	049916543-0

FILED

2021 JAN 22 AM 10:34

JON R. GIMBLE
DISTRICT CLERK
MCLENNAN CO. TX.

Deputy Edmund

Petition

Filing Type	EFileAndServe
Filing Code	Petition
Motion Code	
Filing Description	Plaintiff's Original Petition

Envelope Details

Page 2 of 4

Reference Number 3850928
 Comments
 Status Accepted
 Accepted Date 1/22/2021 9:22 AM
Fees
 Court Fee \$0.00
 Service Fee \$0.00

Documents

Lead Document P's_Original_Petition- Blankenship.pdf [\[Original\]](#) [\[Transmitted\]](#)

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened

Application

Filing Type EFileAndServe
 Filing Code Application
 Motion Code
 Filing Description Civil Case Information Sheet

Envelope Details

Page 3 of 4

Reference Number 3850941
 Comments
 Status Accepted
 Accepted Date 1/22/2021 9:22 AM
Fees
 Court Fee \$0.00
 Service Fee \$0.00

Documents

Lead Document Civil_Case_Information_Sheet.pdf [Original] [Transmitted]

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened

Application

Filing Type EFileAndServe
 Filing Code Application
 Motion Code
 Filing Description Request for Issuance

Envelope Details

Page 4 of 4

Reference Number 3850944
 Comments
 Status Accepted
 Accepted Date 1/22/2021 9:22 AM
Fees
 Court Fee \$55.00
 Service Fee \$0.00

Optional Services
 Copies - Service \$7.00 (7 x \$1.00)
 Issue Citation \$8.00
 Jury Fee \$40.00

Documents

Lead Document Request_for_Issuance.pdf [Original] [Transmitted]

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened

CITATION

**PAPER# 1
CENTEX**

THE STATE OF TEXAS

COPY

Cause No: 2021-151-4

TO: INSITUFORM TECHNOLOGIES, LLC, DEFENDANT – BY SERVING ITS REGISTERED AGENT, CORPORATION SERVICE COMPANY DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY, AT 211 E. 7TH STREET, SUITE 620, AUSTIN, TEXAS 78701

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

JASON BLANKENSHIP

Plaintiff

VS.

INSITUFORM TECHNOLOGIES, LLC

Defendant

Court: 170TH JUDICIAL DISTRICT

Pleading: PLAINTIFF'S ORIGINAL PETITION

Pleading File Date: JANUARY 21, 2021

Cause No: 2021-151-4

NOTICE

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and the above pleading, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. Theses disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.

Issue Date: JANUARY 22, 2021.

**JOEL S. SHIELDS
7901 FISH POND ROAD
SUITE 200
WACO, TEXAS 76710
Attorney for Plaintiff**

Jon R. Gimble, District Clerk
501 Washington Ave., Suite 300 Annex
Waco, McLennan County, Texas 76701

By: Paige Edmundson, Deputy
PAIGE EDMUNDSON

23

RETURN OF SERVICE

Style: **JASON BLANKENSHIP VS. INSITUFORM TECHNOLOGIES, LLC**

Cause No: **2021-151-4**

Court: **170TH JUDICIAL DISTRICT**

Paper#: **1**

Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Came to hand on the _____ day of _____, 20____ at _____ o'clock ____M. and executed on the _____ day of _____, 20____ by delivering to the party designated in the citation, to-wit:

_____ at _____ o'clock ____M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy

Total \$ _____

NO SHERIFF OR CONSTABLE
FEES COLLECTED

_____ County, Texas

By _____

NOT EXECUTED FOR THE FOLLOWING REASONS _____

and having attempted on _____.

"My name is _____ (First) _____ (Middle) _____ (Last), my

date of birth is _____, and my address is _____

I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County, State of Texas, on the _____ day of _____ (Month) _____ (Year)

_____ (Signature) Declarant"

FILED
MCLENNAN COUNTY
2/19/2021 2:27 PM
PAPER# 1 JON R. GIMBLE
CENTEX DISTRICT CLERK
Tiffany Madkins

CITATION

THE STATE OF TEXAS

Cause No: 2021-151-4

TO: INSITUFORM TECHNOLOGIES, LLC, DEFENDANT – BY SERVING ITS REGISTERED AGENT, CORPORATION SERVICE COMPANY DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY, AT 211 E. 7TH STREET, SUITE 620, AUSTIN, TEXAS 78701

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

JASON BLANKENSHIP

Plaintiff

VS.

INSITUFORM TECHNOLOGIES, LLC

Defendant

Court: **170TH JUDICIAL DISTRICT**

Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Pleading File Date: **JANUARY 21, 2021**

Cause No: **2021-151-4**

NOTICE

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and the above pleading, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. Theses disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.

Issue Date: **JANUARY 22, 2021.**

JOEL S. SHIELDS
7901 FISH POND ROAD
SUITE 200
WACO, TEXAS 76710
Attorney for Plaintiff

Jon R. Gimble, District Clerk
501 Washington Ave., Suite 300 Annex
Waco, McLennan County, Texas 76701

By: Paige Edmundson, Deputy
PAIGE EDMUNDSON

23

RETURN OF SERVICE

Style: **JASON BLANKENSHIP VS. INSITUFORM TECHNOLOGIES, LLC**

Cause No: **2021-151-4**

Court: **170TH JUDICIAL DISTRICT**

Paper#: **1**

Pleading: **PLAINTIFF'S ORIGINAL PETITION**

Came to hand on the _____ day of _____, 20____ at _____o'clock ____M. and executed on the _____ day of _____, 20____ by delivering to the party designated in the citation, to-wit:

at _____o'clock ____M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy

Total \$_____

NO SHERIFF OR CONSTABLE
FEES COLLECTED

_____ County, Texas

By _____

See Attached Return of Service

NOT EXECUTED FOR THE FOLLOWING REASONS _____

and having attempted on _____.

"My name is _____ (First) _____ (Middle) _____ (Last), my

date of birth is _____, and my address is _____

_____.

I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County, State of Texas, on the _____ day of _____ (Month) _____ (Year)

_____ (Signature) Declarant"

170th Judicial District Court of MCLENNAN County, Texas

Cause No. 2021-151-4

Jason Blankenship

Plaintiff.

Insituform Technologies

Defendant.

AFFIDAVIT OF SERVICE

Corporation/Business

I, **John J. Donohoe**, make statement to the fact, that I am a competent person more than 18 years of age or older and not a party to this action nor interested in the outcome of this suit. I am a certified private process server authorized by the Judicial Branch Certification Commission of Texas and remain in good standing. I received the document(s) stated below on **1/27/2021 at 4:19 PM** instructing for same to be delivered upon: **Insituform Technologies, LLC by serving its Registered Agent, Corporation Service company dba CSC-Lawyers Incorporating Service Company**

That I delivered to: Insituform Technologies, LLC by serving its Registered Agent, Corporation Service company dba CSC-Lawyers Incorporating Service Company

At the address of: 211 E. 7th Street, Suite 620, Austin, TX 78701 located in the County of Travis

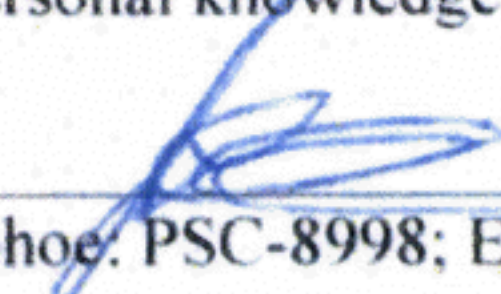
On this date and time: 02/03/2021 at 1:47 PM

In the manner: by personally delivering the document(s) to the AUTHORIZED PERSON, John Spidel, Intake by Security Officer (COVID-19).

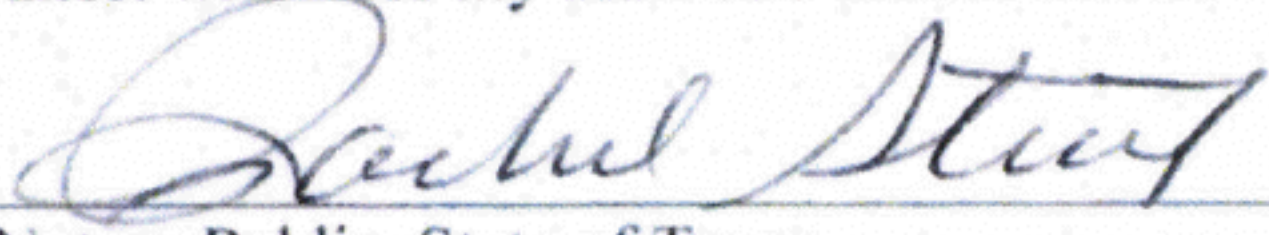
The following document(s): Citation; Plaintiff's Original Petition

Comments:

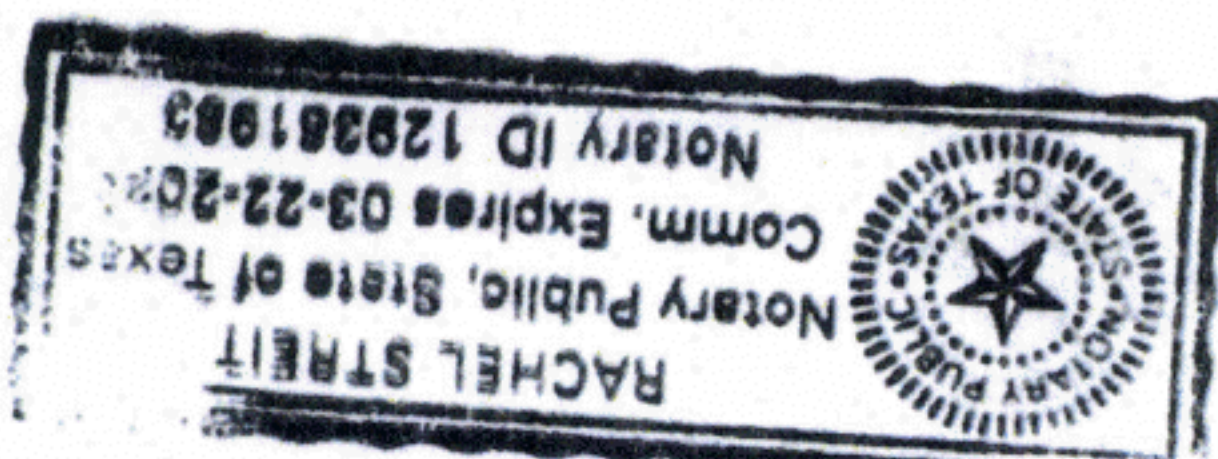
I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing paper are true, correct, and within my personal knowledge.


John J. Donohoe, PSC-8998; Exp. 9/30/2021

SUBSCRIBED AND SWORN TO BY John J. Donohoe on this 11 day of Feb, 2021, to attest witnesses my hand and seal of office.


Notary Public, State of Texas

Service Fee: \$ 50.00
SCANES & ROUTH, LLP
Job ID#: 2100175
Ref#:



[Print this page](#)

Case # 2021-151-4 - JASON BLANKENSHIP VS INSITUFORM TECHNOLOGIES LLC (170TH)

Case Information

Location McLennan County - District Clerk
 Date Filed 2/19/2021 2:27 PM
 Case Number 2021-151-4
 Case Description JASON BLANKENSHIP VS INSITUFORM TECHNOLOGIES LLC
 Assigned to Judge 170TH

Attorney

Firm Name

Filed By Katherine Burrow

Filer Type Not Applicable

Fees

Convenience Fee \$0.00
 Total Court Case Fees \$0.00
 Total Court Party Fees \$0.00
 Total Court Filing Fees \$0.00
 Total Court Service Fees \$0.00
 Total Filing & Service Fees \$0.00
 Total Provider Service Fees \$0.00
 Total Provider Tax Fees \$0.00
 Total Taxes (for non-court fees) \$0.00
 Grand Total \$0.00

Payment

Account Name CITI - KBMB
 Transaction Amount \$0.00
 Transaction Response
 Transaction ID 74732666
 Order #

Handwritten signature: Katherine Burrow

JOHN R. GIMBLE
 DISTRICT CLERK
 MCLENNAN CO. TX.

2021 FEB 22 PM 3:20

FILED

No Fee Documents

Filing Type EFileAndServe
 Filing Code No Fee Documents
 Motion Code
 Filing Description Insituform Technologies, LLC - Citation/ROS

Envelope Details

Page 2 of 2

Reference Number

Comments

Thank you

Courtesy Copies

bjatteberry@centexlitigation.com

Status

Accepted

Accepted Date

2/22/2021 9:29 AM

Fees

Court Fee

\$0.00

Service Fee

\$0.00

Documents

Lead Document

Insituform Technologies LLC - CIT.pdf

[\[Original\]](#)[\[Transmitted\]](#)

eService Details

Name/Email	Firm	Service Method	Status	Served	Date/Time Opened
Joel S Shields shields@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	2/19/2021 2:28 PM
Susan Eskew eskew@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened
Benjamin Yelverton yelverton@scanesrouth.com	Scanes & Routh, LLP	EServe	Sent	Yes	Not Opened

FILED Cadie Ramsey
MCLENNAN COUNTY
2/23/2021 11:53 AM
JON R. GIMBLE
DISTRICT CLERK

CAUSE NO. 2021-151-4

JASON BLANKENSHIP	§	IN THE DISTRICT COURT OF
	§	
v.	§	MCLENNAN COUNTY, TEXAS
	§	
INSITUFORM TECHNOLOGIES, LLC	§	170TH JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Insituform Technologies, LLC ("Defendant") and files this Original Answer in response to the Original Petition filed by Plaintiff Jason Blankenship ("Plaintiff"). In support thereof, Defendant respectfully shows as follows:

I. GENERAL DENIAL

Pursuant to Texas Rule of Civil Procedure 92, Defendant denies each and every allegation contained in Plaintiff's Original Petition ("Petition") and any amendment or supplement thereto, and demands strict proof thereof.

II. AFFIRMATIVE DEFENSES

Subject to the general denial asserted herein and without admitting liability, Defendant further pleads the following affirmative defense(s) and specifically reserves its right to plead further at a later date, if necessary:

1. Plaintiff is not entitled to a jury trial as demanded in his Petition because Plaintiff signed a jury trial waiver as a condition of his employment with Defendant.
2. Plaintiff was at all times an at-will employee.
3. Plaintiff did not suffer an adverse employment action and cannot establish a claim for constructive discharge.
4. Plaintiff's claims are barred in whole or in part to the extent that all administrative remedies have not been properly exhausted.

5. Plaintiff's claims are not actionable because the challenged employment practices are justified by legitimate, non-discriminatory/retaliatory, and non-pretextual business reasons unrelated to Plaintiff's FMLA leave.

6. Plaintiff's claims are barred, in whole or in part, because Defendant would have taken the same action in the absence of any alleged impermissible motivating factor(s).

7. Plaintiff's claims and alleged damages, if any, are barred in whole or in part by the doctrine of laches, waivers, estoppel, unclean hands, and/or after-acquired evidence.

8. If any improper, illegal, discriminatory or retaliatory actions were taken by any of Defendant's employees against Plaintiff, they were outside the course and scope of that employee's employment, contrary to Defendant's policies, and were not ratified, confirmed or approved by Defendant. Thus, any such actions cannot be attributed or imputed to Defendant.

9. Plaintiff's claims fail, in whole or in part, because Defendant exercised reasonable care to prevent and remediate promptly any unlawful behavior and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant or to avoid harm otherwise.

10. Without conceding Plaintiff has suffered any damages because of any alleged wrongdoing by Defendant, Plaintiff has failed to mitigate or minimize the alleged damages, if any, and is therefore barred, in whole or in part, from the recovery of damages.

11. Defendant is entitled to an offset for any earnings since Plaintiff's employment ended, including payments received from insurance carriers, workers' compensation benefits, or unemployment compensation benefits.

12. Plaintiff's recovery, if any, is subject to any applicable damages, or caps, or limitations.

13. Defendant denies that Plaintiff is entitled to any damages. To the extent that Plaintiff is entitled to damages, however, those damages must be barred or reduced to the extent Plaintiff has failed to mitigate her damages.

14. Plaintiff is not entitled to liquidated damages under 29 U.S.C. § 2617(a)(1)(A)(iii) because, at all times relevant to this action, any act or omission by Defendant giving rise to Plaintiff's claim for relief was made in good faith, and Defendant had reasonable grounds for believing that their act or omission was not a violation of the FMLA.

15. An award of liquidated damages is not proper in this case because Plaintiff cannot show that Defendants intended to cause injury to Plaintiff or otherwise acted with reckless or wanton disregard for Plaintiff's rights.

16. Defendant engaged in good faith efforts to comply with all applicable laws. Moreover, the conduct complained of by Plaintiff, if performed or carried out, was performed or carried out in good faith based upon reasonable grounds for believing such conduct was not in violation of state or federal law and, therefore, Plaintiff may not state a claim for punitive or exemplary damages.

17. Defendant specifically reserves the right to assert any other appropriate defenses, including affirmative defenses, to Plaintiff's claims as need for such defenses becomes known.

III. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that Plaintiff take nothing by way of his Petition, that the Petition be dismissed with prejudice, and that Defendant be awarded its costs, attorneys' fees, and any other relief, both at law and in equity, to which Defendant may be entitled.

Respectfully submitted,

By: /s/ Robyn M. Funk

ROBYN M. FUNK

Texas Bar No. 24104416

robyn.funk@ogletreedeakins.com

MOLLY ANN LAWRENCE

Texas Bar No. 24083365

mollyann.lawrence@ogletree.com

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

8117 Preston Road, Suite 500

Dallas, Texas 75225

(214) 987-3800 (Phone)

(214) 987-3927 (Fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded via electronic filing system on this 23rd day of February, 2021, to the parties' counsel of record.

/s/ Robyn M. Funk

ROBYN M. FUNK

45985103.1